

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL NO. G-04-07 (02)
	§	CIVIL ACTION NO. G-06-588
ROYAL LEE MAYS	§	

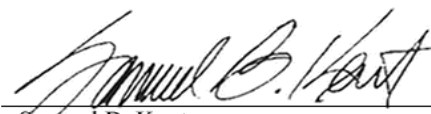
OPINION AND ORDER

On May 1, 2007, Royal Lee Mays filed a “Request for Certificate of Appealability” in an apparent effort to appeal from the Final “Order of Dismissal” of his Section 2255 Motion entered of record on March 21, 2007.

A Motion under Section 2255, while an extension of a criminal proceeding, is, nonetheless, a civil action. Accordingly, an appeal from the denial of the Motion must be filed within thirty days of the entry of the Final Order. See Fed.R.App.P. 4(a)(1)(A). The appeal period in Mays’ case expired on April 19, 2007. Although Mays would be assisted by the “mailbox rule” since he is a prisoner, his request expressly indicates that it was signed by him on April 24, 2007, five days too late. Therefore, even if the Court were to construe Mays’ pro se request also as a Notice of Appeal, Cf. United States v. Orozco, 103 F.3d 389 (5th Cir. 1996), it is untimely.

Since the Court of Appeals would lack jurisdiction to consider Mays’ attempted appeal, Slaughter v. Allstate Ins. Co., 803 F.2d 857 (5th Cir. 1986), it is **ORDERED** that his “Request for Certificate of Appealability” (Instrument no. 132) is **DENIED**.

DONE at Galveston, Texas, this 14th day of May, 2007.


Samuel B. Kent
United States District Judge